

OFFICE OF CONGRESSIONAL AFFAIRS

Routing Slip

	ACTION	INFO
1. D/OCA		X
2. DD/Legislation	XXX	
3. DD/Senate Affairs		X
4. Ch/Senate Affairs		
5. DD/House Affairs		X
6. Ch/House Affairs		
7. Admin Officer		
8. FOIA Officer		
9. Constituent Inquiries Officer		
10. DD/OCA		X
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*POF
19 Sept 89*

SUSPENSE

~~XXXXXXXX~~ 20Sept89 12:00 Noon
Date

Action Officer:

Remarks:

Completed by phone - no objections.

GAH 20Sept89

Name/Date

STAT



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

September 19, 1989

LEGISLATIVE REFERRAL MEMORANDUM

OCA 3256-89

TO: Central Intelligence Agency - E. Norbert Garrett (482-) STAT
National Security Council - G. Philip Hughes (456-2224)
Department of Defense - Sam Brick (697-1305)

SUBJECT: Department of Justice proposed amendment to Electronic
Communication Privacy.

The Office of Management and Budget requests the views of your
agency on the above subject before advising on its relationship to
the program of the President, in accordance with Circular A-19.

Please provide us with your views no later than

12:00 NOON -- WEDNESDAY -- SEPTEMBER 20, 1989

Direct your questions to Gregory Jones (395-3454), of this office.

James J. Jukes
James J. Jukes for
Assistant Director for
Legislative Reference

Enclosures

cc: Kevin Scheid
Rich Bacherman
Bruce McConnell
Bob Damus
C. Boyden Gray

09/19/89 18:12 202 633 4482

DOJ/OLA

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ADD TO INTEL.

Add at end of 2709 (b): ~~REDACTED~~ AUTH.
BILL

Subscriber information regarding a person or entity may also be requested from a wire or electronic communications service provider by the Director of the FBI (or the Director's designee) based upon a certification that such information is relevant to an authorized foreign counterintelligence investigation and that information available to the FBI indicates there is reason to believe the person or entity has been in communication through the services of such a provider, with a foreign power or an agent of a foreign power as defined in subsection (b)(2) of this section.

16 § 2707

CRIMES AND CRIMINAL PROCEDURE

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(3) a good faith determination that section 2511(3) of this title permitted the conduct complained of;

is a complete defense to any civil or criminal action brought under this chapter or any other law.

(4) Limitation.—A civil action under this section may not be commenced later than two years after the date upon which the claimant first discovered or had a reasonable opportunity to discover the violation.

(Added Pub.L. 95-508, Title II, § 201, Oct. 21, 1978, 100 Stat. 1207.)

Effective Date. Section effective 90 days after Oct. 21, 1978 except as otherwise provided in section 202 of Pub.L. 95-508 with respect to conduct pursuant to court order or subpoena, see section 202 of Pub.L. 95-508, set out as a note under section 2701 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-508, see 1986 U.S. Code Cong. and Admin. News, p. 2395.

§ 2708. Effectivity of remedies

The remedies and sanctions described in this chapter are the only judicial remedies and sanctions for unconstitutional violations of this chapter.

(Added Pub.L. 95-508, Title II, § 201, Oct. 21, 1978, 100 Stat. 1207.)

Effective Date. Section effective 90 days after Oct. 21, 1978 except as otherwise provided in section 202 of Pub.L. 95-508 with respect to conduct pursuant to court order or subpoena, see section 202 of Pub.L. 95-508, set out as a note under section 2701 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-508, see 1986 U.S. Code Cong. and Admin. News, p. 2395.

§ 2709. Counterintelligence access to telephone toll and transactional records

(a) Duty to provide.—A wire or electronic communication service provider shall comply with a request for subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation under subsection (b) of this section.

(b) Required certification.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may request any such information and records if the Director (or the Director's designated official) is writing to the wire or electronic communication service provider to which the request is made that—

(1) the information sought is subject to an authorized foreign counterintelligence investigation; and

(2) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

(c) Prohibition of certain disclosures.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

(d) Dissemination by bureaus.—The Federal Bureau of Investigation may disseminate information and records obtained under this section only as provided in guidelines approved by the Attorney General for foreign intelligence collection and foreign counterintelligence investigations conducted by the Federal Bureau of Investigation, and, with respect to dissemination to an agency of the United States, only if such information is clearly relevant to the authorized responsibilities of such agency.

(e) Requirement that certain congressional bodies be informed.—On a semiannual basis the Director of the Federal Bureau of Investigation shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests made under subsection (b) of this section.

(Added Pub.L. 95-508, Title II, § 201, Oct. 21, 1978, 100 Stat. 1207.)

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Subsection 1801), where section 1801 falls.

Revised D Oct. 21, 1978

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